

Exhibit 1

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

JACKIE MARTINEZ, Personal
Representative, On Behalf of the Estate
of RUSSELL MARTINEZ,

Plaintiff,

vs. NO: 14-cv-00534 KG/WPL

JOSEPH SALAZAR, et al.,

Defendants.

DEPOSITION OF FRANCISCO GALVAN

June 3, 2016

11:00 a.m.

119 East Marcy Street

Suite 110

Santa Fe, New Mexico

PURSUANT TO THE FEDERAL RULES OF CIVIL
PROCEDURE, this deposition was:

TAKEN BY: MR. TODD COBERLY
Attorney for Plaintiff

REPORTED BY: Mary Abernathy Seal, RDR, CRR, NM CCR 69
Bean & Associates, Inc.
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(5659L) MAS

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES</p> <p>2 For the Plaintiff:</p> <p>3 MR. TODD COBERLY</p> <p>4 COBERLY & MARTINEZ, LLLP</p> <p>5 1322 Paseo de Peralta</p> <p>6 Santa Fe, New Mexico 87501-4325</p> <p>7 (505) 989-1029</p> <p>8 todd@coberlymartinez.com</p> <p>9 For the Defendants:</p> <p>10 MR. MARTIN ESQUIVEL</p> <p>11 BASHAM & BASHAM, P.C.</p> <p>12 2205 Miguel Chavez Road, Suite A</p> <p>13 Santa Fe, New Mexico 87505</p> <p>14 (505) 988-4575</p> <p>15 mesquivel@bbpcnm.com</p> <p>16 INDEX</p> <p>17 EXAMINATION OF FRANCISCO GALVAN</p> <p>18 Examination by Mr. Coberly 4</p> <p>19 Examination by Mr. Esquivel 37</p> <p>20 Further Examination by Mr. Coberly 42</p> <p>21 REPORTER'S CERTIFICATE 52</p> <p>22 WITNESS SIGNATURE/CORRECTION PAGE 54</p> <p>23 EXHIBITS MARKED OR IDENTIFIED</p> <p>24 Exhibit 1 Notice to take 30(B)(6) deposition 6</p> <p>25 of the City of Espanola</p> <p>Exhibit 2 August 6, 2012, letter 10</p> <p>Exhibit 3 Personnel action form, Joseph A. 27</p> <p>Salazar, Jr.</p> <p>Exhibit 4 September 13, 2012, memorandum 33</p>	<p style="text-align: right;">Page 4</p> <p>1 FRANCISCO GALVAN,</p> <p>2 after having been first duly sworn under oath,</p> <p>3 was questioned, and testified as follows:</p> <p>4 EXAMINATION</p> <p>5 BY MR. COBERLY:</p> <p>6 Q Good afternoon.</p> <p>7 A Good afternoon.</p> <p>8 Q Can you state your name?</p> <p>9 A Francisco Galvan.</p> <p>10 Q Mr. Galvan, have you ever had your</p> <p>11 deposition taken before?</p> <p>12 A No, sir.</p> <p>13 Q I'm sure Mr. Esquivel has told you that I</p> <p>14 need you to answer out loud instead of nodding. No</p> <p>15 uh-huhs or huh-uhs, so the court reporter can get</p> <p>16 it.</p> <p>17 A Sure.</p> <p>18 Q If you need to take a break, we can take a</p> <p>19 break whenever you need to. I just ask that if</p> <p>20 there's a question pending, go ahead and answer the</p> <p>21 question before we take a break.</p> <p>22 A I understand.</p> <p>23 Q What is your job title currently?</p> <p>24 A Records supervisor, evidence custodian.</p> <p>25 Q Okay. And who do you work for?</p>
<p style="text-align: right;">Page 3</p> <p>1 Exhibit 5 Personnel action form, Joseph A. 33</p> <p>2 Salazar, Jr.</p> <p>3 Exhibit 6 September 24, 2013, letter 36</p> <p>4 Exhibit 7 Receipt for property or evidence 38</p> <p>5 with attached photographs</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1 A The City of Espanola Department of Public</p> <p>2 Safety.</p> <p>3 Q Is the Espanola Police Department a</p> <p>4 separate entity than the Department of Public</p> <p>5 Safety?</p> <p>6 A No, sir. It's the Department of Public</p> <p>7 Safety with director Richard Gallegos. Underneath</p> <p>8 him is the police department and the fire</p> <p>9 department.</p> <p>10 Q One other rule is to try to talk a little</p> <p>11 slow for the court reporter.</p> <p>12 A Okay.</p> <p>13 Q I tend to do that myself.</p> <p>14 A Sorry about that.</p> <p>15 Q And how long have you held that job as</p> <p>16 records supervisor?</p> <p>17 A My entire tenure. I was hired in April of</p> <p>18 2009. I didn't take on the title of evidence</p> <p>19 custodian until, I believe, February 2012.</p> <p>20 Q What are the job duties for being a</p> <p>21 records supervisor?</p> <p>22 A I am the custodian on behalf of the City</p> <p>23 of Espanola Police Department. As far as responding</p> <p>24 to information on Public Records Act requests, I</p> <p>25 manage the front office where I have two records</p>

<p style="text-align: right;">Page 6</p> <p>1 clerks that are under me. They take the phone 2 calls, nonemergency phone calls to the police 3 department. They sell the reports, they respond to 4 records requests. I answer on behalf of the police 5 department for motion of discoveries, serve notice 6 of trials, grand jury subpoenas, draw up the 7 officers, kind of a liaison between the department 8 and the local magistrate courts, district attorney's 9 office. Every morning I file the criminal 10 complaints on behalf of the department at the local 11 respective offices. Maintain the paperwork, 12 basically, I guess.</p> <p>13 Q Okay. Let's mark this as Exhibit 1. 14 (Exhibit 1 marked.)</p> <p>15 Q Sir, I just handed you Exhibit 1, which is 16 a notice to take a 30(B)(6) deposition of the City 17 of Espanola. Have you seen this document before?</p> <p>18 A Yes, sir.</p> <p>19 Q Okay. When did you first see that 20 document?</p> <p>21 A I don't have the exact date, but I'd say a 22 couple weeks, if that's an appropriate answer.</p> <p>23 Q Okay. So do you understand that your 24 testimony here today is as a representative of the 25 City of Espanola --</p>	<p style="text-align: right;">Page 8</p> <p>1 department comes across, they have a file that it's 2 put into and it's referred to as a jacket.</p> <p>3 So I started by pulling the jacket of 4 Mr. Russell Martinez to see what documents I had in 5 there, looking for this August 12 -- August 2nd 6 letter. So I started there. I did not find 7 anything there. At that point I went to the 8 evidence room to see if I had anything tagged into 9 evidence under this case number. I did come across 10 that.</p> <p>11 Later on, more recently, to prepare for 12 this, I reached out to City Hall, I spoke with 13 multiple people there. Do you want me to say who I 14 spoke to, what they did?</p> <p>15 Q Sure.</p> <p>16 A Okay. I started off with -- her name is 17 Anna Squires. She's currently the city clerk for 18 the City of Espanola. I started off with her. I 19 reached out to her to see if she had any record of 20 receiving this tort claim August letter. I started 21 with her. I spoke with Theresa Aguilar. She's the 22 deputy city clerk. She researched her records 23 management system known as LaserFiche. And I 24 reached out to our human resources director, Sally 25 Baxter, who was a deputy clerk for the City after</p>
<p style="text-align: right;">Page 7</p> <p>1 A Yes.</p> <p>2 Q -- and not in your personal capacity as a 3 records supervisor?</p> <p>4 A Yes, sir.</p> <p>5 Q Okay. And have you reviewed the topics of 6 the deposition in this notice?</p> <p>7 A I have.</p> <p>8 Q So when I refer to "you," I will be 9 referring to the City of Espanola, i.e., and the 10 Department of Public Safety --</p> <p>11 A As a whole.</p> <p>12 Q -- unless I explicitly state otherwise. 13 And if you get confused if I'm asking you in your 14 personal capacity versus the City of Espanola, let 15 me know.</p> <p>16 A Okay.</p> <p>17 Q Just generally why don't you tell me what 18 you personally did to prepare for this deposition 19 today.</p> <p>20 A Okay. So I began by -- it seems to me 21 like the main topic was a letter sent to the City of 22 Espanola on August 6, 2012. So to prepare for this, 23 I researched -- it's called a jacket. It's a file 24 of every defendant that would come across -- or 25 victim, I guess. Just everybody that the police</p>	<p style="text-align: right;">Page 9</p> <p>1 this, after this time, I believe, to kind of get an 2 idea of what their -- what they do in the event when 3 they receive a tort claim notice, what the process 4 is, what they do with them, where they go, and 5 whatnot, to learn their process down there.</p> <p>6 So what I learned was this August -- this 7 tort claim notice -- I have copies here -- this tort 8 claim notice dated August 6, 2012, was received to 9 Ellis A. Lucero's fax on August 6, 2012, at 1800 10 hours. We don't have an exact -- we don't know who 11 it was that received it originally. It doesn't 12 document any of that. We do show that three days 13 later -- let me refer to my notes here, if I wrote 14 it down. We show three days later it was scanned 15 into LaserFiche, August 9, 2012, at 3:22 p.m. So a 16 few days later after we received it, it was scanned 17 in and put into LaserFiche. This is all we have in 18 regard to this down at City Hall.</p> <p>19 I asked Anna Squires, you know, "Today, 20 how is it done?"</p> <p>21 She goes, "Well, if I receive this notice 22 of Tort Claims Act," she goes, "I would get it over 23 to our insurance, and then I would" -- how did she 24 say it -- "we would communicate with the city 25 manager and see if our attorneys need a copy of it</p>

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1 at that point. Not always do they go to the
2 attorneys immediately, but they always go to the
3 insurance immediately."

4 And then I asked, like, "Well, so the
5 demand for preservation of evidence" -- so when I
6 said, like, so -- because we were talking about this
7 document as a whole, I said, "and if it included the
8 demand for preservation, what would you do at that
9 point?"

10 She goes, "Well, we would internally get
11 them" -- how did she say -- "disperse it
12 internally."

13 **Q Okay. Let me stop you there to make sure**
14 **we got the record here. I'll go ahead and mark**
15 **Exhibit 2.**

16 (Exhibit 2 marked.)

17 **Q I'll put that in front of you. So when**
18 **you refer to this document or this letter, the tort**
19 **claims notice, is it fair to say that you're**
20 **referring to document Exhibit 2?**

21 A Yes, sir.

22 **Q Okay. So what is LaserFiche?**

23 A It's a records management system. Digital
24 file cabinet, I guess.

25 **Q Was the City using LaserFiche on August 6,**

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1 she was the city clerk -- that should have received
2 this at that time. So I asked him to reach out and
3 look at her e-mails, to see if he can see where this
4 August 6 letter went.

5 He called me this morning actually on the
6 way over here and he did not find any outgoing
7 e-mails to the City of Espanola Police Department
8 extension or to any of the officers, myself, any
9 outgoing e-mails related to Coberly Law Office,
10 related to Russell Martinez, related to Joseph
11 Salazar, related to Greg Esparza, myself, Francisco.
12 So we did not find that this letter left -- we
13 couldn't prove that this letter left anywhere from
14 Tessa's possession other than being scanned into
15 LaserFiche. So that's kind of what I have done so
16 far to prepare for this.

17 **Q Okay.**

18 A Sorry about that.

19 **Q No, I appreciate that. And I want to make**
20 **sure I understand. I'll probably bounce around a**
21 **little bit. You're throwing out a lot of names.**
22 **The IT person, Ishmael -- that was a contractor?**

23 A Yeah, his company is IT Connect.

24 **Q Okay. And what does IT Connect do for the**
25 **City of Espanola?**

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1 **2012?**

2 A Yes.

3 **Q Okay. Because my understanding is this**
4 **letter was put into LaserFiche on August 9, 2012.**

5 A Right.

6 **Q Okay. What sort of documents other than**
7 **tort claims notices are put into LaserFiche?**

8 A Should I continue what I did to prepare
9 for the deposition to finish answering the previous
10 question?

11 **Q Sure, let's do that and then we can go**
12 **back.**

13 A Okay, I'm sorry. So after I spoke with
14 Theresa and figured out their internal process, I
15 reached out to -- because we didn't have any -- we
16 couldn't find -- we couldn't show that this left the
17 city clerk's office. So I reached out to a company
18 called IT Connect, who the City of Espanola
19 contracts to do our IT work. His name is Ishmael.
20 I don't have his last name. I apologize. So I
21 called him, or I e-mailed -- I have to go through
22 the city clerk's office to request their help. So I
23 e-mailed Theresa. Theresa forwarded it to Ishmael
24 and cc'd me, and asked him, you know, look at the
25 current -- at the time it was Tessa Jo Mascarenas --

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1 A They handle our IT work. The individual
2 that the City had hired there is no longer and they
3 haven't filled his position, so they reached out to
4 a third-party company to do our IT work.

5 **Q What sort of documents besides tort claims**
6 **notices are put into LaserFiche?**

7 A To my understanding, all documents that
8 come across. I mean, starting from the city clerk's
9 office all the way through finance, personnel
10 records, time sheets. To my understand, it's like
11 everything.

12 **Q So it's basically the City's filing**
13 **cabinet?**

14 A Basically, yes.

15 **Q Electronic?**

16 A And recently -- and also the City of
17 Espanola -- the police department recently got our
18 license for LaserFiche also, and although we did
19 have LaserFiche back in 2012, it wasn't being used
20 to its fullest potential. So like down at the
21 basement we have a lot of hard-copy records on file,
22 and that's another thing I should have mentioned.
23 Theresa Aguilar, the deputy clerk, also went down to
24 the basement to physically look for the Coberly Law
25 Office file and see if there was anything else on

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1 MR. ESQUIVEL: Object to the form of the
2 question.

3 Q Is that correct?

4 A I did not receive this, if that's what --

5 Q I'm talking about the City.

6 A The City, yes. So yes, it was given to
7 the city clerk. From there it was -- yes, at the
8 very least, scanned a couple of days later and put
9 into the document system, yes.

10 Q So someone at the City --

11 A Received it.

12 Q -- received the letter, someone at the
13 City read the letter; is that correct?

14 A Correct.

15 Q And that person that the City does not
16 know who it was; right --

17 A Right.

18 Q -- they scanned it and put it into
19 LaserFiche.

20 A Yes.

21 Q And the City does not know what happened
22 with the actual physical piece of paper.

23 A Yes.

24 Q And the City did not notify anybody at the
25 Espanola Police Department about this letter.

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1 A I'm not aware of any were done. I did not
2 receive any.

3 Q And you're talking "I" as in Espanola
4 Police Department?

5 A I, yes, because it would have come through
6 my desk, something to this effect would have come
7 through me.

8 Q And in preparing for this deposition, you
9 never saw any document or any evidence that the City
10 put out what's called a litigation hold?

11 A No.

12 Q You understand the term "litigation hold"?

13 A No. What do you mean by that?

14 Q When I refer to litigation hold, I mean a
15 letter or directive to employees of the City that
16 there's a pending lawsuit and that you need to not
17 destroy any evidence related to that lawsuit or you
18 need to preserve evidence related to that incident.

19 A So your question was, did we receive it?

20 Q My question is, the City -- as far as you
21 know, the City did not issue any type of litigation
22 hold?

23 A Right, as far as I know.

24 Q And the City, at the time it received this
25 tort claims notice, Officer Salazar was still

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1 A Yes.

2 Q The City did not issue any type of
3 directive to anybody within the City or any of its
4 departments that it needed to preserve evidence.

5 A Based off this letter? No.

6 Q Well, based off that letter or not based
7 off that letter, about this incident.

8 A The evidence about -- the evidence in
9 regard to this incident has been preserved and been
10 in the same bin since the day it was tagged in. It
11 has not --

12 Q My question was: The City, after
13 receiving this letter, you agree with me that it was
14 on notice that a lawsuit was pending?

15 A I agree with you that an individual at the
16 City was aware a lawsuit was pending when they
17 received this letter. Yes.

18 Q And that individual at the City worked for
19 the City; right?

20 A Correct, yes. An individual at the City
21 was aware of this lawsuit.

22 Q And my question is: The City, in response
23 to that, did not issue any directives, written or
24 verbal, to anybody at the Espanola Police Department
25 to preserve any evidence.

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1 employed by the City of Espanola as a police
2 officer; correct?

3 A I do not have the date of when Officer
4 Salazar left.

5 (Exhibit 4 marked.)

6 Q I'll hand you Exhibit 4 and actually, I'll
7 go ahead and give you Exhibit 5.

8 (Exhibit 5 marked.)

9 Q Taking a look at Exhibit 4, which is a
10 letter from Joseph Salazar, and Exhibit 5, which is
11 the City's personnel action form, would you agree
12 with me that Joseph Salazar left the police force in
13 September of 2012?

14 A Yes, sir.

15 Q And so going back, when the City received
16 the tort claims notice on August 6, 2012, Officer
17 Salazar was still employed by the City as a police
18 officer?

19 A Yes.

20 Q And when it was put into the LaserFiche,
21 when the documents were put into LaserFiche, Officer
22 Salazar was still employed by the City as a police
23 officer?

24 MR. ESQUIVEL: Object to the form of the
25 question.

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1 when I reached out from Taser, they're not -- they
2 don't possess the knowledge -- the Taser cannot tell
3 the difference between a drive stun, between it
4 being deployed or it being just a test run. It will
5 all look the same on the PDF form that we get for
6 that.

7 MR. ESQUIVEL: No further questions.

8 FURTHER EXAMINATION

9 BY MR. COBERLY:

10 **Q Mr. Galvan, let me follow up on some of**
11 **that. Let me see Exhibit 7 there. Exhibit 6, the**
12 **tort claims letter, I'll refer you to that. That**
13 **was September 2013; right?**

14 A No, sir. Exhibit 6 is the information in
15 the Public Records Act.

16 **Q Right. That was dated in September of**
17 **2013; correct?**

18 A Oh, I'm sorry, you said tort --

19 **Q I'm sorry. I'm sorry. The inspection of**
20 **public records request was received by the City**
21 **September 25, 2013.**

22 A Yes.

23 **Q Okay. At that date, the Espanola Police**
24 **Department did not know the serial number of the**
25 **Taser that had been issued to defendant Salazar;**

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1 **right?**

2 A On September 25, the City did not know the
3 Taser serial number?

4 **Q Right.**

5 A Let me refer to -- I'm going to have to
6 say no.

7 **Q Right. Because it's true that the City**
8 **doesn't have any idea --**

9 A The documents.

10 **Q -- of the serial number of the Taser that**
11 **was issued to Joseph Salazar; right?**

12 A Right.

13 **Q Either when he was hired or when he**
14 **resigned; right?**

15 A Right.

16 **Q And the data that's stored on the Taser**
17 **will show when the Taser was used; correct?**

18 A It will show when the Taser -- trigger is
19 activated.

20 **Q Okay. And that's for either testing the**
21 **battery; right --**

22 A Testing the battery.

23 **Q -- drive stun --**

24 A Drive stun.

25 **Q -- or actually --**

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1 A Deployment.

2 **Q -- deploying the Tasers?**

3 A Yes.

4 **Q I want to make sure I understand. When**
5 **you say deploy, you're talking about projecting the**
6 **barbs.**

7 A The prongs. Yes, sir.

8 **Q The prongs. Okay. But drive-stunning**
9 **somebody, making direct contact with that person,**
10 **how do you term that?**

11 A When you activate the trigger, it will --
12 when you activate the trigger to a certain level,
13 it's just the drive stun, the drive stun mode, and
14 it gets the voltage at the tip of the Taser gun and
15 you make contact with skin or with an individual to
16 use it as a defense mechanism.

17 **Q And the electronic data stored in the**
18 **Taser will show how many seconds the trigger was**
19 **activated; correct?**

20 A Yes. It turns off automatically. Like,
21 you can't just deploy the trigger and just sit there
22 forever and ever and ever. It will turn off and,
23 you know what I mean, you have to force -- you know,
24 you're forced to use it again. It doesn't keep
25 rolling.

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1 **Q It will turn off after approximately five**
2 **seconds?**

3 A My understanding, yes.

4 **Q And then if you want to -- if you want to**
5 **reactivate it, you have to depress the trigger**
6 **again?**

7 A Correct.

8 **Q But the electronic data stored in the**
9 **Taser will record all that.**

10 A It will record when the trigger is
11 activated.

12 **Q Okay. And you said Joseph Salazar was at**
13 **fault for not submitting a Taser use report for the**
14 **incident involving Russell Martinez; is that**
15 **correct?**

16 A That's correct. I did not locate one in
17 the jacket or the file. I could only assume he did
18 not complete it. And if he did, he didn't turn it
19 in with his report.

20 **Q And you have been involved in this**
21 **litigation in gathering records for production;**
22 **correct?**

23 A Correct.

24 **Q And you have never come across any Taser**
25 **use reports authored by defendant Salazar; correct?**

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1 A That's correct. It was my understanding
2 that he was aware that you have to do it when it's
3 deployed, but the policy states he should have done
4 it regardless.

5 Q And so you agree that defendant Salazar
6 did not follow the policy.

7 A In regards to the Taser use report, yes.

8 Q And you would agree that if we knew the
9 serial number of defendant Salazar, the Taser that
10 had been issued to defendant Salazar, we could
11 determine how many times he deployed the Taser on
12 May 11, 2012, or how many times he pulled the
13 trigger -- activated the trigger?

14 A Well, if we were able to download the
15 data, we should be able to find out how many times
16 it was activated. We do have -- we do have a few
17 Tasers that failed, or whatever, according to the
18 Taser, the company, because we could very well have
19 his Taser there; we just can't download anything.
20 It's just that it's broken or something failed
21 within the Taser itself that didn't allow us to
22 download any of the data. We have never -- all our
23 Tasers, whether they're broken or still used, are
24 all within our same cabinet. We still have every
25 Taser in there.

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1 Q So defendant Salazar's Taser is in the
2 cabinet; you just don't know which Taser it is?

3 A Yes. Yes. We downloaded every Taser X26
4 that we have in our department and provided those to
5 Basham. And there was -- I believe I gave them a
6 list of a few that did not allow us to -- and screen
7 shots and everything, what the computer was telling
8 us when we tried to download that data. It wouldn't
9 even read it. It wouldn't even let us get to that
10 point.

11 Q If I understand your testimony -- well,
12 your testimony is that all evidence has been
13 preserved as far as the City is concerned.

14 A All evidence has been preserved as far as
15 the City is concerned. There was no evidence from
16 Joseph Salazar. How do I say this? Even if we had
17 Joseph Salazar's serial number right now, there
18 still would not be anything more in the evidence
19 room than what is sitting there right now. All
20 evidence has been preserved.

21 Q The purpose of an officer submitting
22 evidence into the evidence room is for a criminal
23 prosecution; correct?

24 A Chain of custody.

25 Q And it's for a criminal prosecution;

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1 correct?

2 A In addition to chain of custody. It's
3 held for safekeeping. It's not just criminal
4 prosecution. It's held for safekeeping. It's held
5 for chain of custody.

6 Q Okay. Is it your testimony that Espanola
7 Police Department will put evidence into the
8 evidence locker to preserve evidence that might be
9 used against them in a future civil lawsuit?

10 A Okay, say that again.

11 Q Is it your testimony that one of the
12 reasons that the Espanola Police Department will
13 save evidence in the evidence room is to preserve
14 evidence that may be used against the City in a
15 future civil lawsuit?

16 MR. ESQUIVEL: Object to the form of the
17 question.

18 A It's there -- they preserve evidence used
19 at a scene regardless of what it's going to be used
20 for. They need to keep a copy -- they need to keep
21 chain of custody of whatever the evidence might be.

22 Q And the chain of custody is so when you go
23 and you prosecute a criminal defendant, that the
24 evidence that is presented in court can be shown to
25 be authentic, and hasn't been tampered with;

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1 correct?

2 A That is one of the reasons for. It's not
3 solely for criminal. It's for safekeeping.

4 Q What else would chain of custody --

5 A Well, what I mean is, in the evidence
6 room, it's not just held for criminal prosecution.
7 It's in addition to safekeeping, in addition to if
8 there was an individual who may be intoxicated and
9 couldn't keep his personal belongings or had money
10 or something and had to have been detoxed. It's not
11 just for criminal prosecution. It's used for
12 anything that the officer needs to preserve that
13 should not stay on their person. It's there to show
14 that he accepted the property and where he put it to
15 keep it so it wouldn't be in his possession to
16 either get lost or, you know, whatever.

17 Q Okay. So your testimony, then, is that
18 even if the Espanola Police Department had received
19 Exhibit 2, the Espanola Police Department would have
20 done nothing else, it would not have kept any other
21 evidence or done anything differently, other than
22 copying the letter and putting it in the evidence
23 locker?

24 A That's correct. That's correct. Had the
25 Espanola Police Department received Exhibit 2, only

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1 a copy would have been affixed to Greg Esparza's
2 items that he tagged into evidence because the case
3 numbers matched.

4 **Q Okay. And if the Espanola Police**
5 **Department had received Exhibit 2, you would not**
6 **have gone out and tracked down Joseph Salazar's**
7 **Taser and somehow noted the serial number.**

8 A No, sir.

9 **Q Okay.**

10 A There was no evidence from Joseph Salazar
11 required from his Taser. Therefore, we wouldn't
12 have reached out to Joseph Salazar and his Taser to
13 try and obtain -- yeah, there's no evidence from
14 Joseph Salazar's Taser in this case, I guess is what
15 I'm getting at.

16 **Q I have no further questions.**

17 A If I may add, if I may add, the Taser
18 download has never been part of our normal duties,
19 has never been evidence, has never been utilized as
20 evidence, and even -- again, even if I did receive
21 Exhibit 2, it doesn't specifically ask me for Taser
22 download stuff, or Taser data. If it mentioned
23 anything like that -- like today's world, if I
24 received something like this that said "Taser data,"
25 I would have made the effort to go out and see, what

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1 do they mean by Taser data? So had I received this
2 letter, August 6, 2012, back then, I still wouldn't
3 have reached out to Joseph Salazar or anyone as far
4 as Taser data, because it's just something that we
5 don't do.

6 **Q Okay. So to make sure the record is clear**
7 **here, I want to make sure I understand. Even though**
8 **this letter specifically says Mr. Martinez is**
9 **alleging that he was tased by Espanola police**
10 **officers, in the plural, correct --**

11 A Correct.

12 **Q -- and that he would be filing a lawsuit;**
13 **correct --**

14 A Correct.

15 **Q -- had the police department received this**
16 **letter, the police department would not have gone**
17 **out to Joseph Salazar to identify the specific Taser**
18 **issued to defendant Salazar?**

19 A No. It would have just went into
20 evidence.

21 MR. COBERLY: Nothing further.

22 MR. ESQUIVEL: We'll read and sign.

23 (The deposition concluded at 12:04 p.m.)
24
25

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW MEXICO

3 JACKIE MARTINEZ, Personal
4 Representative, On Behalf of the Estate
5 of RUSSELL MARTINEZ,
6 Plaintiff,

7 vs. NO: 14-cv-00534 KG/WPL

8 JOSEPH SALAZAR, et al.,
9 Defendants.

10 REPORTER'S CERTIFICATE

11 I, MARY ABERNATHY SEAL, New Mexico CCR
#69, DO HEREBY CERTIFY that on June 3, 2016, the
12 Deposition of FRANCISCO GALVAN was taken before me
13 at the request of, and sealed original thereof
14 retained by:

15 Attorney for the Plaintiff

16 Mr. Todd Coberly

17 COBERLY & MARTINEZ, LLLP

18 1322 Paseo de Peralta

19 Santa Fe, New Mexico 87501-4325

20 (505) 989-1029

21 I FURTHER CERTIFY that copies of this
22 Certificate have been mailed or delivered to all
23 Counsel, and parties to the proceedings not
24 represented by counsel, appearing at the taking of
25 the Deposition.

26 I FURTHER CERTIFY that examination of this
27 transcript and signature of the witness was required
28 by the witness and all parties present.

29 On _____ a letter was mailed or delivered to Mr.
30 Martin Esquivel regarding obtaining signature of the
31 witness, and corrections, if any, were appended to
32 the original and each copy of the Deposition.

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1 I FURTHER CERTIFY that the recoverable
2 cost of the original and one copy of the Deposition,
3 including exhibits, to Mr. Todd Coberly is
4 \$_____.

5 I FURTHER CERTIFY that I did administer
6 the oath to the witness herein prior to the taking
7 of this Deposition; that I did thereafter report in
8 stenographic shorthand the questions and answers set
9 forth herein, and the foregoing is a true and
10 correct transcript of the proceeding had upon the
11 taking of this Deposition to the best of my ability.

12 I FURTHER CERTIFY that I am neither
13 employed by nor related to nor contracted with
14 (unless excepted by the rules) any of the parties or
15 attorneys in this case, and that I have no interest
16 whatsoever in the final disposition of this case in
17 any court.

18 _____
19 Mary Abernathy Seal
20 BEAN & ASSOCIATES, INC.
21 NM Certified Court Reporter #69
22 License Expires: 12/31/16

23 (5659L) MAS
24 Date taken: June 3, 2016
25 Proofread by: KW